

**UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
TYLER DIVISION**

EON CORP., IP HOLDINGS, LLC,	§	Civil Action No. 6:10-cv-00379-LED
	§	
Plaintiff,	§	Before the Honorable Leonard Davis
	§	United States District Judge
v.	§	
	§	
T-MOBILE USA, INC., <i>et al.</i> ,	§	
	§	
Defendants.	§	
	§	
	§	

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**DEFENDANT D-LINK SYSTEMS, INC.’S NOTICE REGARDING ITS  
MOTION TO DISMISS PLAINTIFF’S SECOND AMENDED COMPLAINT**

On October, 29, 2010, Defendant D-Link Systems, Inc. (“D-Link Systems”), moved the Court, pursuant to Rule 12 of the Federal Rules of Civil Procedure (“Rule”), for an Order Dismissing the October 5, 2010 Second Amended Complaint (“SAC”, Docket # 69) of Plaintiff EON Corp. IP Holdings, LLC (“EON”). In response, on November 18, 2010, EON filed a late Opposition<sup>1</sup> and a Third Amended Complaint (“TAC”, Docket # 156). EON’s TAC was filed without the requisite the leave of Court required by Rule 15(a). D-Link Systems objects to these filings.

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<sup>1</sup> According to Local Civil Rule CV-7(e), a party has fourteen days plus an additional three days (pursuant to CV-6), from the date a motion is served to file a response in opposition. This 17-day period required a response by Monday, November 15, 2010. EON’s Opposition was filed on Thursday, November 18, 2010. EON did not contact D-Link Systems to request additional time to file its response, nor did EON file a motion seeking an extension of the prescribed time. D-Link Systems objects to EON’s late response.

Nevertheless, D-Link Systems understands that the Court's standard docket control order allows amendments, without leave of Court, for a period of time up to a designated deadline in the order. Therefore, D-Link Systems will treat EON's TAC as the operative complaint against it and will file its response to that pleading. As to its Rule 12 Motion, D-Link Systems advises the Court that it will not file a reply in furtherance of that Motion.

Respectfully submitted,

By: /s/Duncan Palmatier  
Duncan Palmatier (admitted pro hac vice)

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Counsel for Defendant,  
D-link Systems, Inc.

**CERTIFICATE OF SERVICE**

I certify that all counsel of record who are deemed to have consented to electronic service are being served with a copy of this document and the attached proposed order via the Court's CM/ECF system, pursuant to Local Rule CV-5(a)(3) on this day. I am not aware of any counsel of record who is not able to receive the document via the Court's CM/ECF system.

DATED: November 29, 2010

By: /s/Duncan Palmatier  
Duncan Palmatier